HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 1194 of 2005

Dated: 8th September, 2005

Between:

Meesa Roshamma W/o.Koteshwar Rao,

R/o.Bodulabanda village, Nelakondapally Mandal,

Khammam District.

..... PETITIONER

AND

1.The Joint Collector, Nalgonda District, at Nalgonda

and three others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 1194 of 2005

ORDER:

This writ petition has been filed by Meesa Roshamma assailing the order dated 23.07.2004 passed in F2/JC/ROR/3/2002 on the file of the Joint Collector and Additional District Magistrate, at Nalgonda.

2. The facts of the case, in brief, are:- The petitioner filed an application before the Mandal Revenue Officer, Nadigudem-3rd respondent for grant of pattadar pass book and title deed in respect of Ac.5.00 in Survey No.279 situated at Ameenabad, hamlet of Palavaram village of Nadigudem Mandal. Her application came to be allowed by the Mandal Revenue Officer by order dated 04.05.1995. Assailing the said Order,

Chithaluri Ravindra Prasad-4th respondent filed an appeal before the Revenue Divisional Officer, Suryapet, Nalgonda District-2nd respondent. The appeal filed by the 4th respondent came to be allowed and consequently pattadar pass book and title deed issued in favour of the petitioner came to be cancelled. Assailing the order of the Revenue Divisional Officer, Suryapet, Nalgonda District-2nd respondent, the petitioner filed a revision under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1970 (for short, 'the Act') before the Joint Collector and Additional District Magistrate, Nalgonda-1st respondent. On considering the material brought on record and on hearing both the parties, the Joint Collector and Additional District Magistrate, Nalgonda-1st respondent, taking note of the fact of the pendency of the civil suit between the parties being O.S.No.102 of 2000 on the file of the Junior Civil Judge, Kodad, Nalgonda District, directed both the parties to approach the revenue authorities soon after disposal of the civil suit for further action. I deem it appropriate to refer the relevant portion of the order passed by the Revisional Authority and it is thus:

> "The appellant herein enjoying the said land Ac.5.00 covered by Sy.No.279 as owner and possessor and she has been paying the land revenue to the authorities concerned till today. After the death of her father Ch.Venkaiah the respondent obstructed the peaceful possession of this appellant, the appellant filed a civil suit before the Hon'ble Junior Civil Judge, Kodad which was numbered as O.S.No.102/2000 and obtained the *ex parte* interim injunction order against the respondent.
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> Perused the arguments of both the counsel. Both the parties are stating that late Ch.Venkaiah given the suit land to them. The revision petitioner stated that during life time of Ch.Venkaiah gifted the land in affection being sister and same was mutated in the revenue records. But, she has not produced any evidence in support of her claim. Further, the record also not traceable. On the other side Sri Ch.Ravindra Prasad the respondent herein stating that he is adopted son of late Venkaiah and he executed Will deed in his favour. He produced the Xerox copy of the Will deed in support of his claim. Further, the revision petitioner stated that a civil suit is pending before the Hon'ble Junior Civil Judge, Kodad in O.S.No.102/2000 and the Hon'ble Junior Civil Judge, Kodad also passed interim orders in favour of revision petitioner.
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> In view of the above, since a civil suit is already pending on the same issue before the Junior Civil Judge, Kodad, and the revision petitioner is also granted interim orders in her favour, I do not want to interfere with the orders of the lower Court. Both the parties are directed to approach the revenue authorities soon after disposal of the civil suit for further action. With the direction the revision is disposed."

Assailing the order of the Revisional Authority, the petitioner approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 4th respondent.

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4. Learned Counsel appearing for the petitioner submits that the petitioner has been in possession and enjoyment of the property and therefore, order passed by the Revenue Divisional Officer, Suryapet, Nalgonda District, canceling the order of the Mandal Revenue Officer, Nadigudem, Nalgonda District, whereunder the pattadar pass book and title deed have been granted in favour of the petitioner, is not legal and proper. He further submits that the Joint Collector and Additional District Magistrate, Nalgonda, has not properly appreciated the material brought on record and thereby erred in dismissing the revision.

5. Learned Counsel appearing for the 4th respondent submits that the suit filed by the petitioner ended in dismissal, and therefore, the petitioner has no right over the property.

6 . *Per contra*, learned Counsel appearing for the petitioner submits that an application to set aside the dismissed for default order passed in O.S.No.102 of 2000 on the file of the Junior Civil Judge, Kodad, Nalgonda District, has been filed and the same is pending consideration.

7. A fact remains that one Ch.Venkaiah was the original owner of the land. The petitioner claims the property on the ground that Ch.Venkaiah gifted the same in her favour. Whereas, 4th respondent claims the property on the basis of Will executed by Ch.Venkaiah in his favour. In the circumstances of the case, the Joint Collector and Additional District Magistrate, Nalgonda, is justified in directing both the parties to approach the revenue authorities soon after the settlement of dispute between them in civil Court for further action. I do not see any flaw in the order passed by the Joint Collector and Additional District Magistrate, Nalgonda. As directed by the Joint

Collector and Additional District Magistrate, Nalgonda, successful party in the civil Court is at liberty to make an application under the Act for grant of pattadar pass book and title deed. However, it goes without saying that the orders passed by the original authority and the appellate authority shall stand set aside.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 8th September, 2005.

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